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COURT OF APPEAL, FOURTH APPELLATE DISTRICT

DIVISION ONE

STATE OF CALIFORNIA

THE PEOPLE,

Plaintiff and Respondent,

v.

TRAVIS ELLIOTT THOMPSON,

Defendant and Appellant.

D053291

(Super. Ct. No. SCD210478)

APPEAL from a judgment of the Superior Court of San Diego County, Margie G. Woods, Judge. Affirmed.

Travis Elliott Thompson entered a negotiated guilty plea to one count of assault by means of force likely to produce great bodily injury. (Pen. Code § 245, subd. (a)(1).) As part of the plea, Thompson admitted that he had a prison prior (§ 667.5, subd. (b)) and that the assault was a serious felony within the meaning of section 1192.7, subdivision (c)(8).

Two months after entering his guilty plea, Thompson moved to withdraw the plea on the grounds that he had been improperly pressured into taking the plea by his retained counsel and that his judgment was clouded by anti-anxiety medication.¹ After an evidentiary hearing, the trial court denied the motion. The court then sentenced Thompson to the four-year prison term stipulated in Thompson's plea agreement.

FACTS²

On November 11, 2007, Gretel Espinoza and Eric Herrera arrived home from shopping and parked their car in an alley outside their home. After Espinoza went into the home with some groceries, Thompson approached Herrera from behind and assaulted him with his fists, rendering Herrera unconscious. (Cf. *People v. Aguilar* (1997) 16 Cal.4th 1023, 1028 ["[T]he use of hands or fists alone may support a conviction of assault 'by means of force likely to produce great bodily injury' ".]) Thompson then called Espinoza, who was one of Thompson's former prostitutes, and told her to go to the alley and get her boyfriend who "just got his ass beat." Herrera suffered extensive nasal fractures and a laceration below his left eye that required 10 stitches.

¹ In the plea colloquy, however, Thompson had informed the trial court he was satisfied with the legal representation he had received, that his lawyer was "great," and that he had not consumed any alcohol, drugs or medication within the last 48 hours.

² The facts are taken from the probation report as Thompson pleaded guilty prior to the preliminary hearing. Thompson's change of plea form states: "I committed an assault on the victim and personally inflicted great bodily injury."

After his arrest, Thompson initially denied any involvement but then admitted to punching Herrera multiple times in the face. Thompson claimed to have acted in self-defense.

DISCUSSION

Appointed appellate counsel has filed a brief setting forth evidence in the superior court. Counsel presents no argument for reversal, but asks that this court review the record for error as mandated by *People v. Wende* (1979) 25 Cal.3d 436. Pursuant to *Anders v. California* (1967) 386 U.S. 738, counsel refers to as possible, but not arguable, issues: (1) whether Thompson's motion to withdraw his plea should have been construed by the trial court as a writ of error coram nobis; (see, e.g., *People v. Phillips* (1968) 263 Cal.App.2d 423, 426); and (2) whether the motion should have been granted. (See *People v. Urfer* (1979) 94 Cal.App.3d 887, 891-892 ["The granting or denial of an application to withdraw a guilty plea is within the discretion of the trial court after a consideration of all the factors necessary to bring about a just result; and the decision of the trial judge will not be disturbed on appeal unless an abuse thereof is clearly demonstrated' "].)

We granted Thompson permission to file a brief on his own behalf. He has not responded.

A review of the record pursuant to *People v. Wende, supra*, 25 Cal.3d 436 and *Anders v. California, supra*, 386 U.S. 738, including the possible issues referred to by appellate counsel, has disclosed no reasonably arguable appellate issues. Competent counsel has represented Thompson on this appeal.

DISPOSITION

The judgment is affirmed.

IRION, J.

WE CONCUR:

McCONNELL, P. J.

McINTYRE, J.